



## **CITY OF SAN JOSÉ, CALIFORNIA**

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### **MINUTES OF THE CITY COUNCIL**

**SAN JOSÉ, CALIFORNIA**

**TUESDAY, NOVEMBER 1, 2005**

The Council of the City of San José convened in regular session at 9:00 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - LeZotte. (Excused)

Upon motion unanimously adopted, Council recessed at 9:02 a.m. to a Closed Session in Room T1841, (A) Public employee performance evaluation pursuant to Government Code Section 54957, Title: City Auditor. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) Bui, et al. v. City, et al. (C) to confer with Real Property Designated Representatives pursuant to Government Code 54956.8: Property: New City Hall Retail Space, Designated Representatives: Evet Loewen for the City of San José and Imwalley Stegner, Under Negotiation: Price and terms of payment. (D) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Municipal Employees Federation; (4) Confidential Employees Organization; (5) City Association of Management Personnel; (6) Association of Maintenance Supervisory Personnel; (7) Operating Engineers, Local 3; (8) International Brotherhood of Electrical Workers; (9) Association of Building and Mechanical and Electrical Inspectors; (10) Association of Engineers and Architects; (11) International Federation of Professional and Technical Employees, Local 21.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:45 a.m. and reconvened at 1:33 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - LeZotte. (Excused)

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## INVOCATION

Father Brendan McGuire, Pastor of Holy Spirit Parish and School. (District 10)

## PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

## ORDERS OF THE DAY

Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the Orders of the Day and the Amended Agenda were approved. (10-0-1. Absent: LeZotte.)

## CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to Mr. Felton Owens for his years of meritorious service to the East Side Union High School District and the community at large. (Cortese)**

Action: Deferred, to be heard in the evening.

- 1.2 Presentation of a commendation to Campbell Middle School for sponsoring a coin drive and collecting \$1,170 to donate to the Red Cross to aid victims of Hurricane Katrina. (LeZotte)**

Action: Deferred, to be heard in the evening.

- 1.3 Presentation of a \$2,500 check by the Silicon Valley Business Travel Association (SVBTA) to the local Santa Clara Valley American Red Cross to send local volunteers to the Gulf Coast Region in response to Hurricane Katrina relief efforts. (Mayor)**

Action: The Silicon Valley Business Travel Association presented a check to the Santa Clara Valley American Red Cross to send local volunteers to respond to the Hurricane Katrina relief efforts. Mayor Gonzales thanked the Business Travel Association.

**1.4 Presentation of a \$14,000 check by the representatives of the Assyrian Churches in San José to the local Santa Clara Valley American Red Cross to support Hurricane Katrina Relief Efforts in the Gulf Coast Region. (Mayor)**

Action: Representatives of the Assyrian Churches in San José presented a check to the Santa Clara Valley Red Cross to support the Hurricane Katrina Relief Efforts. Mayor Gonzales acknowledged everyone involved in this effort.

**CONSENT CALENDAR**

Upon motion by Vice Mayor Chavez, seconded by Council Member Reed, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-2. Absent: LeZotte, Yeager.)

**2.2 (a) ORD. NO. 27582 – Rezoning certain real property situated at the southeast corner of Alum Rock Avenue and McCreery Avenue to A(PD) Planned Development Zoning District. PDC05-056**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.f

Action: Ordinance No. 27582 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

**(b) ORD. NO. 27583 – Rezoning certain real property situated on the west side of Myrtle Street, approximately 200 feet northerly of West Hedding Street (927 Myrtle Street) to A(PD) Planned Development Zoning District. PDC05-074**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Action: Ordinance No. 27583 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

**(c) ORD. NO. 27584 – Rezoning certain real property situated on the northwest corner of Viewpoint Lane and Almaden Road to R-1-5 Residence Zoning District. C04-024**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Action: Ordinance No. 27584 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

**2.2 (d) ORD. NO. 27585 – Rezoning certain real property situated east side of King Road, approximately 350 feet northerly of Story Road to CP Commercial Pedestrian Zoning District. C05-090**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Action: Ordinance No. 27585 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

- (e) **ORD. NO. 27586 – Rezoning certain real property situated on the west side of Curtiss Avenue, approximately 350 feet southerly of Willow Street (1163 Curtiss Avenue) to A(PD) Planned Development Zoning District. PDC05-031**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Action: Ordinance No. 27586 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

- (f) **ORD. NO. 27587 – Rezoning certain real property situated east of Hervey Lane, approximately 230 feet south of Padres Drive to A(PD) Planned Development Zoning District. PDC04-112**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Action: Ordinance No. 27587 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

- (g) **ORD. NO. 27588 – Rezoning certain real property situated on the north side of Metcalf Road, approximately 100 feet easterly of Highway 101, to A(PD) Planned Development Zoning District. PDC04-077**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte and carried unanimously, Ordinance No. 27588 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

- 2.2 (h) **ORD. NO. 27581 – Rezoning certain real property situated on the northeast corner of Samaritan Drive and Clydelle Avenue (2039 Samaritan Drive) to A(PD) Planned Development Zoning District. PDC05-036**

Documents Filed: Proof of Publication of Notice of Public Hearing, executed on October 25, 2005, submitted by the City Clerk.

Action: Ordinance No. 27581 was adopted. (9-0-2. Absent: LeZotte, Yeager.)

- 2.3 **Adoption of a resolution authorizing the City Attorney to execute the first amendment to the legal services agreement with Nossaman, Guthner, Knox & Elliott, LLP, for real estate legal services increasing compensation by \$300,000, from \$200,000 for a total not to exceed amount of \$500,000. CEQA: Not a Project. (Board of Administration for the Police & Fire Department Retirement Plan)**

Documents Filed: Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated October 12, 2005, recommending adoption of a resolution.

Action: Resolution No. 72946, entitled: "A Resolution of the Council of the City of San José Authorizing the City Attorney to Execute the First Amendment to the Agreement with Nossaman Guthner Knox & Elliott LLP for Legal Services in Connection with the Real Estate Portfolio of the Police and Fire Department Retirement Boards", was adopted. (9-0-2. Absent: LeZotte, Yeager.)

- 2.4 **Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments in the Services for Redevelopment Capital Projects Fund (City-side Redevelopment Fund):**

- (a) **Establish an appropriation to the Department of Public Works for the Starbird Teen Center Project (PSM 423) in the amount of \$90,000.**
- (b) **Increase the appropriation to the Department of Transportation for the Spartan Keyes Traffic Calming Project (PSM 350, #2) by \$379,000.**
- (c) **Increase the estimate for Earned Revenue by \$469,000.**

**CEQA: Not a Project. Council Districts 1, 3, and 7. SNI: Blackford, Spartan Keyes. (City Manager's Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated October 12, 2005, recommending adoption of ordinance and funding sources resolution amendments.

## 2.4 (Cont'd.)

Action: Ordinance No. 27589, entitled, “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Services for Redevelopment Capital Projects Fund for the Starbird Teen Cener Project and the Spartan Keyes Traffic Calming Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 72947, entitled “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Services for Redevelopment Capital Projects Fund”, were adopted. (9-0-2. Absent: LeZotte, Yeager.)

## 2.5 Adoption of the following appropriation ordinance and funding source resolution amendments in the Gift Trust Fund:

(a) **Establish appropriation to the Department of Parks, Recreation and Neighborhood Services Department for Hurricane Katrina Animals in the amount of \$1,005.**

(b) **Increase the estimate for Earned Revenue by \$1,005.**

**CEQA: Not a Project. (City Manager’s Office)**

Documents Filed: Memorandum from Budget Director Larry Lisenbee, dated October 12, 2005, recommending adoption of appropriation ordinance and funding source resolution amendments.

Action: Ordinance No. 27590, entitled: “An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Gift Trust Fund for Hurricane Katrina Animals; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption” and Resolution No. 72948, entitled: “A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Gift Trust Fund”, were adopted. (9-0-2. Absent: LeZotte, Yeager.)

## 2.6 Adoption of a resolution adopting the National Incident Management System (NIMS) as the day-to-day emergency management system for the City of San José, to ensure compliance with Federal requirements for future Homeland Security Grant funding. CEQA: Not a Project. (Emergency Services)

Documents Filed: Memorandum from Director of Department of Emergency Services Frances Edwards, dated October 12, 2005, recommending adoption of a resolution.

Council Member Reed requested information on lessons learned from Hurricane Katrina. Director Edwards replied that Staff would return with a Status Report.

## 2.6 (Cont'd.)

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle and carried unanimously, Resolution No. 72949, entitled: "A Resolution of the Council of the City of San José Adopting the National Incident Management System (NIMS) as the Day-to-Day Emergency Management System for the City of San José", was adopted. (9-0-2. Absent: LeZotte, Yeager.)

## 2.7 **Adoption of a resolution authorizing the City Manager to negotiate and execute the Reuse and Recycling agreements with the following non-profit organizations, for a one-year period beginning July 1, 2005 and ending June 30, 2006:**

(a) **Goodwill Industries of Santa Clara County in an amount not to exceed \$349,679.**

(b) **The Salvation Army in an amount not to exceed \$123,590.**

(c) **Hope Services in an amount not to exceed \$6,082.**

**CEQA: Not a Project. (Environmental Services)**

Documents Filed: Memorandum from Acting Director Environmental Services John Stufflebean, dated September 12, 2005, recommending adoption of a resolution.

Public Comment: Ross Signorino spoke in favor of the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, Resolution No. 72950, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute Reuse and Recycling Agreements with Goodwill Industries of Santa Clara County, The Salvation Army and Hope Services for FY 2005-2006", was adopted. (9-0-2. Absent: LeZotte, Yeager.)

## 2.8 **Approval of award of open purchase orders for supplies, materials, equipment, and services for FY 2005-2006 #6 and authorization for the Director of Finance to execute the purchase orders. CEQA: See memo for CEQA designation(s). (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated October 12, 2005, recommending approval of award of open purchase orders.

Action: The award of open purchase orders for FY 2005-2006 #6 was approved. (9-0-2. Absent: LeZotte, Yeager.)

- 2.9 (a) **Adoption of a resolution authorizing the Director of Housing to accept Building Equity and Growth in Neighborhood (BEGIN) housing program grants from the California Department of Housing and Community Development (HCD) and to negotiate and execute the grant agreements and any amendments or other documents necessary to implement the programs funded by the following BEGIN grants:**
- (1) **\$150,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the San Antonio Place development.**
  - (2) **\$330,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Murphy Avenue development.**
  - (3) **\$210,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Hennessey Place development.**
  - (4) **\$510,000 grant to fund downpayment assistance loans to first-time homebuyers purchasing in the Sycamore Terrace development.**
- (b) **Adoption of the following appropriation ordinance and funding sources resolution amendments in the Multi-Source Housing Fund:**
- (1) **Increase the CalHOME (BEGIN) Program appropriation by \$1,200,000.**
  - (2) **Increase the estimate for Grant Revenue in the amount of \$1,200,000.**
- CEQA: Not a Project. Council Districts 4, 5, 9, and 10. SNI: Mayfair. (Housing/City Manager's Office)**

Documents Filed: Memorandum from Director of Housing Leslye Krutko, dated October 4, 2005, recommending adoption of a resolution, appropriation and funding sources resolution amendments.

Action: Resolution No. 72951, entitled: "A Resolution of the Council of the City of San José (1) Authorizing the Director of Housing to Accept Begin Housing Program Grants from the California Department of Housing and Community Development and to Negotiate and Execute the Grant Agreements and any Amendments or Other Documents Necessary to Implement the Programs Funded by the Following Begin Grants: (a) A \$150,000 Grant to Fund Downpayment Assistance Loans to First Time Purchasers of Homes in the San Antonio Development, (b) A \$330,000 Grant to Fund Downpayment Assistance Loans to First Time Purchasers of Homes in the Murphy Avenue Development, (c) A \$210,000 Grant to Fund Downpayment Assistance Loans to First Time Purchasers of Homes in the Hennessey Place, and (d) A \$510,000 Grant to Fund First Time Purchasers of Homes in the Sycamore Terrace Development"; Ordinance No. 27591, entitled: "A Resolution of the Council of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Multi-Source Housing Fund for the CALHOME (BEGIN) Program; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72952, entitled: "An Ordinance of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Multi-Source Housing Fund", were adopted. (9-0-2. Absent: LeZotte, Yeager.)



- 2.10 (a) Adoption of the following appropriation ordinance and funding sources resolution amendments in the Park Trust Fund:**
- (1) Establish an appropriation to the Department of Parks, Recreation and Neighborhood Services Department in the amount of \$96,000 for the Lundy Avenue and McKay Drive Park Project; and**
  - (2) Increase the estimate for Earned Revenue by \$96,000.**
- (b) Adoption of a resolution authorizing the City Manager to:**
- (1) Accept an Irrevocable Offer of Dedication of Parkland from Toll CA VIII, LP, dba Toll Brothers Inc, for park purposes; and**
  - (2) Negotiate and execute a turnkey park agreement with Toll CA VIII, LP, dba Toll Brothers Inc, for Planned Development Permit PD 04-074, associated with Tentative Maps No. PT 9682 and PT 9683.**

**CEQA: Resolution No. 72327. Council District 4. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley and Budget Director Larry Lisenbee, dated October 20, 2005, recommending adoption of appropriation and funding sources resolution amendments and resolution.

Action: Ordinance No. 27592, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Subdivision Park Trust Fund for the Lundy and McKay Turnkey Park Project; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption", Resolution No. 72953, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Subdivision Park Trust Fund", and Resolution No. 72954, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Accept an Irrevocable Offer of Dedication of Parkland from Toll CA VIII, LP, DBA Toll Brothers Inc. for Park Purposes and to Negotiate and Execute a Turnkey Park Agreement with Toll CA VIII, LP, DBA Toll Brothers Inc. for Planned Development Permit PD 04-074, Associated with Tentative Maps No. PT 9682 and PT 9683 (The Lundy Avenue and McKay Drive Turnkey Park Project)", were adopted. (9-0-2. Absent: LeZotte, Yeager.)

- 2.11 Approval of a second continuation agreement with Nolte Associates, Inc. for consultant services for roadway improvements for the Hellyer-Piercy Improvement District modifying the scope of services and increasing the amount of compensation by \$30,000, for a total not to exceed \$121,500 and extending the term to December 31, 2005. CEQA: Not a Project. Council District 2. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated October 12, 2005, recommending approval of the agreement.

Action: The second continuation agreement with Nolte Associates, Inc. was approved. (9-0-2. Absent: LeZotte, Yeager.)

- 2.12 (a) **Approval of an agreement with Coyote Valley Research Park, LLC, to fund and perform a property appraisal and staff analysis for possible formation of a community facilities district for the construction of flood control detention facilities and associated channel improvements for an area within the North Coyote Valley.**
- (b) **Adoption of the following appropriation ordinance and a funding sources resolution in the Construction Excise Tax Fund:**
- (1) **Establish an appropriation to Public Works for the formation of Community Facilities District No. 13 in the amount of \$40,000.**
- (2) **Increase the estimate for Earned Revenue by \$40,000.**

**CEQA: Resolution No. 69957, and addenda thereto, File No. PP05-190. Council District 2. (Public Works/City Manager's Office)**

Documents Filed: Memorandum from Director of Public Works Katy Allen and Budget Director Larry Lisenbee, dated October 12, 2005, recommending approval of an agreement and adoption of a an appropriation ordinance and funding sources resolution.

Public Comment: William Garbett spoke in opposition to the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte and carried unanimously, the agreement with Coyote Valley Research Park, LLC was approved, Ordinance No. 27593, entitled: "An Ordinance of the City of San José Amending Ordinance No. 27474 to Appropriate Monies in the Construction Excise Tax Fund for the Community Facilities District No. 13; and Providing that This Ordinance Shall Become Effective Immediately Upon Adoption" and Resolution No. 72955, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 72762 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2005-2006 to Adjust Revenues in the Construction Excise Tax Fund", were adopted. (9-0-2. Absent: LeZotte, Yeager.)

- 2.13 **Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement between the City of San José and San José Repertory Theatre (REP), to make an advance payment of the City's funding assistance to the REP in the amount of the remaining two quarterly payments for the FY 2005-2006 in an amount of \$150,000. (City Manager's Office)**  
**(Rules Committee referral 10/26/05)**

## **2.13 (Cont'd.)**

Documents Filed: Memorandum from Deputy City Manager Kay Winer, dated October 27, 2005, recommending adoption of a resolution.

Action: Resolution No. 72956, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Amendment to the Agreement for Operation and Management of the Theatre Facility with San José Repertory Theatre (REP) to Make an Advance Payment of the City Funding Assistance to the REP in the Amount of the Remaining Two Quarterly Payments for the Fiscal Year 2005-2006 Totaling \$150,000", was adopted. (9-0-2. Absent: LeZotte, Yeager.)

### **END OF CONSENT CALENDAR**

## **STRATEGIC SUPPORT SERVICES**

### **3.2 Report of the Rules Committee – October 19, 2005 Vice Mayor Chavez, Chair**

Documents Filed: The Rules Committee Report dated October 19, 2005.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review November 1, 2005 Draft City Council Agenda

The Committee recommended approval of the November 1, 2005 City Council Agenda.

(2) Add New Items to October 25, 2005 City Council Agenda

The Committee recommended approval of the October 25, 2005 City Council Agenda with eleven additions.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State - There was no report.

(2) Federal - There was no report.

(d) Meeting Schedules - There were none.

**3.2 Report of the Rules Committee – October 19, 2005 (Cont'd.)**  
**Vice Mayor Chavez, Chair**

- (e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated October 13, 2005, transmitting items for public record and administration for the period of October 5-11, 2005.

The Committee noted and filed the Public Record.

- (f) Appointments to Boards, Commissions and Committees - There were none.
- (g) Rules Committee Reviews, Recommendations and Approvals
  - (1) Payment Performance Bond Program for Small Business Contractors Workload Assessment

The Committee recommended deferral to the October 26, 2005 Rules Committee Meeting.

- (h) Oral Communications

Bill Chew requested that the Neighborhood Development Center be brought back to City Hall.

- (i) Adjournment - The meeting was adjourned at 2:30 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Campos and carried unanimously, the Rules Committee Report and the actions of October 19, 2005 were accepted. (10-0-1. Absent: LeZotte.)

**3.3 Report of the Making Government Work Better Committee – October 20, 2005**  
**Council Member Reed, Chair**

Documents Filed: The Making Government Work Better Committee Report dated October 20, 2005.

- (a) Update on Northside Community Center Operations. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley and City Auditor Gerald Silva, dated October 17, 2005, transmitting the report.

### **3.3 Report of the Making Government Work Better Committee – October 20, 2005 Council Member Reed, Chair (Cont'd.)**

- (a) Update on Northside Community Center Operations (Cont'd.)  
The Committee directed the City Auditor, City Attorney's Office and Parks, Recreation and Neighborhood Service to research and prepare a separate legal document that will deliver the equivalent gap in funding of \$12,000 a quarter on a month-to-month basis by earmarking a portion of the \$58,000 of General Fund support to go strictly to payroll of existing staff only and any taxes on payroll and payroll tax liability. Staff will prepare the proposed framework for the arrangement in a legal document to be reviewed at the November 17 Committee meeting. This arrangement will be reviewed on a 30-day basis. Putting the money into recurring payroll would be contingent upon the nonprofit showing significant incremental progress both on the fundraising side and the facility rental side. Staff will prepare a separate grant agreement dealing with the remainder of \$58,000. Council Member Cortese requested included in the motion to limit the distribution of General Fund money only to the portion of the gap in existing payroll. Council Member Yeager requested the motion include direction to staff to include in the staff report, fund raising and marketing strategy for long term planning. Council Member Cortese requested the motion include direction to staff to include in the staff report a mechanism to ratify continued monthly disbursements as a Council. Council Member Reed requested the motion include direction to staff to prepare a supplemental report to include outstanding documents from Fil-Am to include in the November 17, 2005 Committee meeting packet.
- (b) Followup Discussion on Marketing and Usage of Compressed Natural Gas Facility at Airport. Attachment: Memorandum from Director of Aviation William Sherry, dated October 7, 2005, transmitting the report.
- The Committee approved the report.
- (c) Activities and Accomplishments of the Office of the City Auditor
- Deferred to November 17, 2005 Making Government Work Better Committee meeting.
- (d) City Auditor Peer Review. Attachment: Staff presentation of Peer Review of the San José City Auditor's Office, dated October 20, 2005.
- Allen Ash, Director of Toronto Office of Auditor General will issue a full compliance report at the November 17, 2005 Committee meeting. Committee heard a partial report.

### **3.3 Report of the Making Government Work Better Committee – October 20, 2005 Council Member Reed, Chair (Cont'd.)**

- (e) Environmental Services Department Laboratory. Attachment: An Audit of the Environmental Services Department's Laboratory, dated October 2005.

The Committee approved the report.

- (f) Review of the Workers' Compensation Claims Liability as of June 30, 2005. Memorandum from City Auditor Gerald Silva, Director of Finance Scott Johnson and Director Employee Services Mark Danaj, dated October 13, 2005, transmitting the report.

The Committee accepted the report unanimously with notation from Scott Johnson to use the methodology as recommended in the CAFR as an accounting charge.

- (g) Comprehensive Annual Financial Report. Attachment: (1) Memorandum from Director of Finance Scott Johnson, dated October 13, 2005, transmitting the report. (2) Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated October 5, 2005, transmitting the RDA report.

Director of Finance Scott Johnson noted that Pages 49 and 50 of the CAFR will be replaced with revisions on Footnote Disclosures on Investments and Policy and Allowable Investment Types. Federal Compliance Audit A-133 or Single Audit are currently a work in progress and will report out to this Committee on December 1, 2005. The management letter from the external auditor, Macias Gini & Company, will be presented to the Committee in December 2005.

See Item 9.1 for Council Action taken.

- (h) Annual Debt Report. Attachment: Memorandum from Redevelopment Agency Chief Financial Officer David Baum, dated October 7, 2005, transmitting the report.

See Item 9.2 for Council Action taken.

- (i) Oral Petitions - None were presented.
- (j) Adjournment - The meeting was adjourned at 3:45 p.m.

Action: Upon motion by Council Member Reed, seconded by Vice Mayor Chavez and carried unanimously, the Making Government Work Better Committee Report and the actions of October 20, 2005 were accepted. (10-0-1. Absent: LeZotte.)

**3.4 Approval of the recommended Committee appointments for Councilmember Nguyen. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated October 26, 2005, recommending approval of the Committee appointments.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, Council Member Nguyen was appointed to the Building Strong Neighborhoods and Driving Strong Economy Committees. (10-0-1. Absent: LeZotte.)

**3.5 Council discussion on the definition of Surviving Child for qualification of survival benefits in the Police and Fire Retirement Plan. CEQA: Not a Project.  
[Rules Committee referral 10/5/05 – Item 3.2G(1)]  
(Deferred from 10/25/05 – Item 3.5)**

Documents Filed: Memorandum from Council Liaison for City Manager's Office Nadine Nader, dated October 11, 2005, transmitting the report.

Public Comment: Ken Heredia spoke in favor of the Staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese and carried unanimously, the Staff recommendation was approved, with direction to implement in April of 2006. (10-0-1. Absent: LeZotte.)

**COMMUNITY & ECONOMIC DEVELOPMENT**

**4.1 Report of the Building Strong Neighborhoods Committee – October 17, 2005  
Council Member Chirco, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report dated October 17, 2005.

- (a) Citywide Trail Update. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated September 26, 2005, transmitting the report.

The Committee accepted the Staff report.

**4.1 Report of the Building Strong Neighborhoods Committee – October 17, 2005  
Council Member Chirco, Chair (Cont'd.)**

- (b) Discussion and Direction on Facility Use Request for Qualifications. Attachment: Memorandum from Director Hensley, dated October 6, 2005, transmitting the report.

Staff was requested to submit the Community Outreach Task Force representative's information to the Mayor and City Council. The Committee accepted the Staff report.

- (c) Discuss Anti-Litter Program Enhancements and Expansion. Attachment: Memorandum from Director Hensley, dated October 6, 2005, transmitting the report.

The Committee accepted the Staff report.

- (d) Update on Neighborhood Investment Strategy

Dropped.

- (e) Secondary Units Pilot Program Implementation Steps and Community Outreach. Attachment: Memorandum from Director of Housing Leslye Corsiglia and Director of Planning, Building and Code Enforcement Stephen Haase, dated September 13, 2005, transmitting the report.

Public Comment was heard by the Committee. The Committee accepted the Staff report, with approval to move forward to the City Council.  
See Item 4.3 for Council Action taken.

- (f) Oral Petitions

Bill Chew spoke in favor of returning the Neighborhood Development Center to City Hall.

- (g) Adjournment - The meeting was adjourned at 2:42 p.m.

Action: Upon motion by Council Member Chirco, seconded by Vice Mayor Chavez and carried unanimously, the Building Strong Neighborhoods Committee Report and the actions of October 17, 2005 were accepted. (10-0-1. Absent: LeZotte.)



- 4.3 Approval of an ordinance providing a limited exception to Ordinance No. 21663 that precludes second units, and adopting a temporary second unit pilot program which authorizes the issuance of a maximum of 100 permits during a one-year evaluation period from January 1, 2006 through December 31, 2006, and which establishes specified requirements pertaining to minimum lot size, maximum unit size and number of bedrooms, parking, development standards, design standards, and applicable fees. CEQA: Exempt, File No. PP05-196. (Housing/Planning, Building and Code Enforcement)  
[Building Strong Neighborhoods Committee referral 10/17/05 – Item 4.1(e)]**

Action: Deferred to November 15, 2005. To be heard in the Evening.

- 4.4 Public Hearing on and consideration of approval of an ordinance on Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow one single family detached residential unit with reduced setbacks for Lot 54, on a 0.079 gross acre site, located at the northerly corner of Bramble Wood Lane and Silk Wood Lane (9618 Tract) (Orchard Property LLC, Owner; Taylor Woodrow Homes, Developer). CEQA: Reuse of BFI Properties Residential Project EIR Resolution No. 72045. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
PDC05-096 - District 4**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-096, dated October 12, 2005, recommending approval on the subject property. (2) Proofs of Publications of Notice of Public Hearing, executed on October 14, 2005, and October 21, 2005, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle, the recommendation of the Planning Director was approved, and Ordinance No. 27594, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated at the Northeast Corner of Bramble Wood Lane and Silk Wood Lane (Tract 9618) to A(PD) Planned Development Zoning District”, was passed for publication. (9-0-2. Absent: LeZotte, Yeager.)

## TRANSPORTATION & AVIATION SERVICES

- 6.2 Report on bids and award of contract for the Quito Road Improvement Project from Saratoga Avenue to Bucknall Road to the low bidder, Grade Tech, Inc. in the amount of \$733,940 and approval of a contingency in the amount of \$75,000. CEQA: Exempt, PP 05-070. Council District 1. (Public Works/Transportation)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated October 12, 2005, recommending appropriate action based on evaluation of bids. (2) Supplemental memorandum from Director of Public Works Katy Allen and Director of Transportation James Helmer, dated October 25, 2005, recommending approval of the contract.

Public Comment: Ross Signorino requested a left turn lane at the intersection of Graves and Saratoga.

Action: Upon motion by Council Member Pyle, seconded by Council Member Campos and carried unanimously, the award of the contract to Grade Tech, Inc. was approved. (10-0-1. Absent: LeZotte.)

- 6.3 Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with the Santa Clara Valley Transportation Authority related to the I-880/Coleman Avenue Interchange Project to redesign the landscaping plans consistent with the Airport Landscape Master Plan, at a cost not to exceed \$400,000 and to be funded by cost savings within the original agreement. (Transportation)**  
**[Building Better Transportation Committee referral 10/3/05 - Item 6.1(d)]**  
**(Deferred from 10/18/05 – Item 6.3)**

Action: Deferred to January 2006.

- 6.4 Acceptance of Staff recommendations on VTA proposed Measure A Expenditure Plan advocating that the Santa Clara Valley Transportation Authority Board consider the following items:**
- (a) Allocate funding for the Airport People Mover Project in the Initial Plan, providing a direct connection from BART and Caltrain to the Airport terminal.**
  - (b) Continue to pursue accelerated development of the BART to Silicon Valley project to preserve options for project delivery earlier than 2018 if further project cost savings are identified and/or new revenues secured such as through joint development efforts.**

*(Item continued on the next page)*

- 6.4 (c) **Accept placement of the Capitol LRT Extension from Eastridge to Neiman project in Completion Plan (for future funding) with the condition that good bus service be provided from development in the Neiman area to the Eastridge Transit Center.**
- (d) **Pursue funding of Caltrain electrification as part of the California High Speed Rail project to implement the Tamien to Gilroy segment and to save costs for the San Francisco to Tamien segment.**
- (e) **Allow the environmental process for the Santa Clara/Alum Rock Transit Corridor project to proceed so as to determine the preferred transit mode and then pursue amending the VTA Expenditure Plan to fund the approved project.**
- (f) **Support the VTA proposal for an annual review of the Expenditure Plan allowing flexibility to strategically respond to changing circumstances, needs and priorities.**

**CEQA: Not a Project. (Transportation)  
(Rules Committee referral 10/19/05)**

Documents Filed: Memorandum from Director of Transportation James Helmer, dated October 25, 2005, transmitting the VTA Expenditure Plan.

Director of Transportation James Helmer and Deputy Director of Transportation Hans Larsen presented an outline of the Santa Clara Valley Transportation Authority Proposed Measure A Expenditure Plan.

Mayor Gonzales commented that formal Council action will be on November 15, 2005.

Discussion followed with comments from the Council Members as noted in "Action".

Public Comment: William Garbett spoke in opposition to various items. Ross Signorino suggested that the City should put off electrification for awhile. Irene Hsu, Working Partnership USA, spoke in support of the 24% service increase for the bus and lightrail, and the separate line item for the Senior and Disabled Programs.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, action was deferred to November 15, 2005. Council provided feedback to Staff and requested additional information about costs, benefits and ridership, including: (1) Consider BART completion in 2015 as a higher priority. (2) Find a way to connect the people mover to the airport. (3) Continue to connect land use with the transit. (4) Reframe analysis of regional equity with technical criteria on the key projects and provide additional data about the other projects. (5) Look at the clean air benefits, follow-up with VTA's existing work and add more staff analysis regarding costs and additional

**6.4 (Cont'd.)**

benefits. (6) Comparison of opportunities for transit oriented development related to bus rapid transit versus lightrail versus heavy rail in terms of densities. (7) Pursue the idea of using some of the funding for the North San José Development Plan for generating alternative funding for the people mover. (8) Consider moving the build out date of the Eastridge Lightrail project, which meets all criteria, has been identified by the voters, and funding is there. (9) Consider the people mover as a regional project. (10) Include regional ridership information from one area to another. (11) Include both Santa Clara and Alum Rock lightrail, how that connects to the downtown, and continuing the lightrail from Alum Rock to Eastridge. (12) Consider the prior commitment to East San José regarding lightrail connecting downtown to East San José. (10-0-1. Absent: LeZotte.)

**6.5 City Council approval of an amendment to the bylaws of the Caltrain Central Equipment Maintenance and Operations Facility (CEMOF) Monitoring Committee. (Yeager)**

Documents Filed: Memorandum from Council Member Yeager, dated October 26, 2005, recommending approval of the amendment.

Action: Upon motion by Council Member Yeager, seconded Vice Mayor Chavez and carried unanimously, the amendment the bylaws was approved. (10-0-1. Absent: LeZotte.)

**ENVIRONMENTAL & UTILITY SERVICES**

**7.1 Approval of becoming a Signatory City of the United Nations Urban Environmental Accords. (Mayor)**

Documents Filed: Memorandum from Mayor Gonzales, dated October 31, 2005, recommending approval of San José becoming a Signatory City.

Public Comment: Mark Trout spoke off topic.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese and carried unanimously, San José becoming a Signatory City of the United Nations Urban Environmental Accords was approved. (10-0-1. Absent: LeZotte.)

## JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 3:41 p.m. to consider Items 9.1 and 9.2 in a Joint Session.

**9.1 Acceptance of the Comprehensive Annual Financial reports of the City and Redevelopment Agency for Fiscal Year ended June 30, 2005.  
[Making Government Work Better Committee referral 10/20/05 – Item 3.3(g)]**

Documents Filed: Memoranda from Council Liaison for City Manager's Office Nadine Nader, both dated October 27, 2005, transmitting the reports.

Item 9.1 and 9.2 were heard concurrently.

Director of Finance Scott Johnson outlined the Comprehensive Annual Financial Report. Redevelopment Agency Chief Financial Officer David Baum presented the Redevelopment Agency Comprehensive Annual Financial Report overview. Kevin O'Connor, Macias, Fini and Company was present for questions.

A short discussion followed.

Action: Upon motion by Council Member Reed, seconded by Council Member Pyle and carried unanimously, the reports were accepted. (10-0-1. Absent: LeZotte.)

**9.2 Acceptance of the Annual Debt reports for the City and Redevelopment Agency.  
[Making Government Work Better Committee referral 10/20/05 – Item 3.3(h)]**

Action: See Item 9.1 for action.

The Redevelopment Agency portion of the meeting adjourned at 4:05 p.m.

## NOTICE OF CITY ENGINEER'S PENDING DECISION ON FINAL MAPS

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9637	N/S San Carlos Street and North Buena Vista Avenue	6	Core Development	32 Units	SFA

## **OPEN FORUM**

- (1) Bill Chew congratulated the Mayor and Council for televising the “Getting Families Back to Work III” Study Sessions.
- (2) Ross Signorino expressed his displeasure about spending tax dollars on building a ball park in San José and suggested bringing it to the taxpayers first.
- (3) Mark Trout expressed his own personal opinions.

## **ADJOURNMENT**

The Council of the City of San José adjourned at 4:10 p.m. in memory of Rosa Parks, for her courage in helping to extend civil rights to all Americans; and in memory of Lennox Sweeney, longtime San José anti-war activist.

**RON GONZALES, MAYOR**

**ATTEST:**

**LEE PRICE, CMC, CITY CLERK**

smd/11-1-05MIN

Access the video, the agenda and related reports for this meeting by visiting the City's website at [www.sanjoseca.gov/clerk/MeetingArchive.asp](http://www.sanjoseca.gov/clerk/MeetingArchive.asp)

## **PUBLIC HEARINGS**

- 11.1 (a) Conforming Planned Development Rezoning from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow one single family detached residential unit with reduced setbacks for Lot 54, on a 0.079 gross acre site, located at the northerly corner of Bramble Wood Lane and Silk Wood Lane (9618 Tract) (Orchard Property LLC, Owner; Taylor Woodrow Homes, Developer). CEQA: Reuse of BFI Properties Residential Project EIR Resolution No. 72045. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.  
PDC05-096 - District 4**

Action: The evening session was canceled. Item 11.1 was renoticed for 1:30 p.m. See Item 4.4 for Council action taken.



## CHAMBERS

- ## CEQA: Not a Project. (Finance)

- Action: Deferred to November 15, 2005.